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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,952	11/09/2006	Helmut Altheimer	100341.56445US	3068

23911 7590 05/04/2009

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EXAMINER	
STULTZ, JESSICA T	

ART UNIT	PAPER NUMBER
2873	

MAIL DATE	DELIVERY MODE
05/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/569,952	ALTHEIMER ET AL.	
	Examiner	Art Unit	
	JESSICA T. STULTZ	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *28 February 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *022806*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the Species of Figure 4 in the reply filed on February 19, 2009 is acknowledged. The traversal is on the ground(s) that Figures 4 and 5, more specifically 4b and 5b, are drawn to the response of the refractive lens of the invention to either additional negative or positive refraction error. The arguments are persuasive and upon further consideration, the previous restriction requirement has been withdrawn and all of the claims were examined.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
    (1) Field of the Invention.
    (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamakaji et al US 2004/0032656, herein referred to as Yamakaji '565.

Regarding claim 1, Yamakaji '565 discloses a method of producing a progressive spectacle glass (Paragraphs 84, 107-108, 112, 129, 138-140, Figure 19) comprising the steps of: defining an ordering value for the average use value in the far reference point of the progressive spectacle glass (Paragraphs 112, 129, 132), calculating the progressive spectacle glass while taking into account a calculation value of the average use value in the far reference point (Paragraphs 100-103, 105, 112, 129, 132, Figures 7-9, 12, and 18, wherein the power error with respect to the desired distance power correction is used to calculate the progressive lens), the calculation value having a negative desired refraction deviation between 0.03 dpt and 0.2 dpt with respect to the ordering value in the far reference point (Figures 7-9, 12, and 18, wherein the desired refraction deviation is represented by the power error), and producing the calculated progressive spectacle glass (Paragraph 107).

Regarding claim 2, Yamakaji '565 further discloses that the negative refraction deviation is between 0.08 dpt and 0.12 dpt (Figures 7-9, 12, and 18).

Regarding claims 3 and 14, Yamakaji '565 further discloses a step of calculating the progressive spectacle glass takes place while taking into account a calculation addition, which is increased at least by the amount of the negative desired refraction deviation in the far reference point with respect to the ordering addition (Paragraphs 112, 129-132, and 138-140).

Regarding claim 4, Yamakaji '565 further discloses that the calculation addition is increased with respect to the ordering addition by the sum of the amount of the negative desired refraction deviation in the far reference point and of a positive desired refraction deviation between 0.02 dpt to 0.1 dpt (Paragraphs 100-103, 105, 112, 129, 132, Figures 7-9, 12, and 18).

Regarding claim 5, Yamakaji '565 further discloses that the positive desired refraction deviation amounts to approximately 0.05 dpt (Figures 7-9, 12, and 18).

Regarding claims 6 and 15-17, Yamakaji '565 further discloses that the step of computing the progressive spectacle glass takes place while taking into account a predetermined desired refraction error on the main line (visual line, Figure 25) as a function of the y-coordinate along a vertical section of the spectacle glass (Paragraphs 100, 120-122, Figure 7)

Regarding claims 7 and 18-19 Yamakaji '565 further discloses that the step of calculating the progressive spectacle glass takes place such that the average use value of the produced spectacle glass increases as little as possible in the case of a horizontal viewing deflection in the far range (Paragraphs 100-103 and 112, Figure 7-9 and 12).

Regarding claim 8, Yamakaji '565 further discloses that the step of calculating the progressive spectacle glass takes place such that the average use value of the produced spectacle

glass at the height of the far reference point in the case of a horizontal viewing deflection increases by less than 0.25 dpt, preferably less than 0.15 dpt, with respect to the average use value in the far reference point (Figures 7-9, 12, and 18).

Regarding claim 9, Yamakaji '565 discloses a progressive spectacle glass having a far part with a far reference point, a near part and a progression zone (Paragraphs 84, 107-108, 112, 129, 138-140, Figures 19 and 25), the progressive spectacle glass being designed such that its calculation takes place while taking into account a calculation value of the average use value in the far reference point (Paragraphs 100-103, 105, 112, 129, 132, Figures 7-9, 12, and 18, wherein the power error with respect to the desired distance power correction is used to calculate the progressive lens), the calculation value with respect to a predefined ordering value of the average use value in the far reference point having a negative desired refraction deviation of between 0.03 dpt and 0.2 dpt (Figures 7-9, 12, and 18, wherein the desired refraction deviation is represented by the power error).

Regarding claim 10, Yamakaji '565 further discloses that the negative refraction deviation is between 0.08 dpt and 0.12 dpt (Figures 7-9, 12, and 18).

Regarding claim 11, Yamakaji '565 further discloses that the progressive spectacle glass is designed such that its calculation takes place while taking into account a calculation addition which is increased at least by the amount of the negative desired refraction deviation in the far reference point with respect to the ordering addition (Paragraphs 112, 129-132, and 138-140).

Regarding claim 12, Yamakaji '565 further discloses that the calculation addition is increased with respect to the ordering addition by the sum of the amount of the negative desired

refraction deviation in the far reference point and of a positive desired refraction deviation between 0.02 dpt to 0.1 dpt (Paragraphs 100-103, 105, 112, 129, 132, Figures 7-9, 12, and 18).

Regarding claim 20, Yamakaji '565 further discloses that the progressive spectacle glass is designed such that its calculation takes place while taking into account a calculation addition, which is increased at least by the amount of the negative desired refraction deviation in the far reference point with respect to the ordering addition (Paragraphs 112, 129-132, and 138-140).

Regarding claim 13, Yamakaji '565 discloses a progressive spectacle glass having a far part, a near part and a progression zone (Paragraphs 84, 107-108, 112, 129, 138-140, Figures 19 and 25), wherein the progressive spectacle glass is designed such that, in the case of a superimposition with a refraction error of +0.2 dpt (Figures 7-9, 12, and 18, wherein the desired refraction deviation is represented by the power error), the far range is reduced by not more than 5%, preferably not more than 3% (Shown in Figures 7-9, 12, and 18).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yanari US 6,412,948, Morris US 6,652,096, and Kitani US 6,712,467 are cited since they disclose progressive lenses with negative/positive desired refraction deviation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSICA T. STULTZ whose telephone number is (571)272-2339. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571-272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jessica T Stultz
Primary Examiner
Art Unit 2873

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